

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION**

**RORY O'NEAL SCALES,** )  
                                  )  
                                  )  
**Petitioner,**              )  
                                  )  
                                  )  
**v.**                            )           **1:10-CV-2516-VEH-PWG**  
                                  )  
                                  )  
**LEON FORNISS, Warden, and the** )  
**ATTORNEY GENERAL OF THE**    )  
**STATE OF ALABAMA,**            )  
                                  )  
                                  )  
**Respondents,**              )  
                                  )

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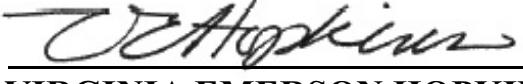
**MEMORANDUM OF OPINION**

The magistrate judge filed a report and recommendation on March 31, 2011, recommending that the State's response in opposition to the petition (Doc. 34), treated as a motion for summary disposition, be **GRANTED**; that Scales's "motion for judgment on the pleadings"(Doc. 33) be **DENIED**; and that the Petition be **DISMISSED WITH PREJUDICE**. On April 7, 2011, petitioner filed objections to the findings and recommendation.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the findings and recommendation and the objections filed by the petitioner, the Court is of the opinion that the magistrate judge's findings are due to be and are hereby **ADOPTED** and his recommendation is **ACCEPTED**.

Accordingly, the petition for writ of habeas corpus is due to be DISMISSED with prejudice. A Final Judgment will be entered.

**DONE** and **ORDERED** this the 11th day of April, 2011.

  
**VIRGINIA EMERSON HOPKINS**  
United States District Judge